

§ 19.19

garnishment or repayment schedule imposes an extreme financial hardship on the debtor. The Commerce entity will evaluate the statement and documentation and determine whether the current offset, garnishment, or repayment schedule imposes extreme financial hardship on the debtor. The Commerce entity shall notify the debtor in writing of such determination, including, if appropriate, a revised offset, garnishment, or payment schedule. If the special review results in a revised offset, garnishment, or repayment schedule, the Commerce entity will notify the appropriate Federal agency or other persons about the new terms.

§ 19.19 Will Commerce entities issue a refund if money is erroneously collected on a Commerce debt?

Commerce entities shall promptly refund to a debtor any amount collected on a Commerce debt when the Commerce debt is waived or otherwise found not to be owed to the United States, or as otherwise required by law. Refunds under this Part shall not bear interest unless required by law.

Subpart C—Procedures for Offset of Commerce Department Payments To Collect Debts Owed to Other Federal Agencies

§ 19.20 How do other Federal agencies use the offset process to collect debts from payments issued by a Commerce entity?

(a) *Offset of Commerce entity payments to collect debts owed to other Federal agencies.* (1) In most cases, Federal agencies submit debts to the Treasury Offset Program to collect delinquent debts from payments issued by Commerce entities and other Federal agencies, a process known as “centralized offset.” When centralized offset is not available or appropriate, any Federal agency may ask a Commerce entity (when acting as a “payment agency”) to collect a debt owed to such agency by offsetting funds payable to a debtor by the Commerce entity, including salary payments issued to Commerce entity employees. This section and § 19.21 of this subpart C apply when a Federal agency asks a Commerce entity to off-

15 CFR Subtitle A (1–1–08 Edition)

set a payment issued by the Commerce entity to a person who owes a debt to the United States.

(2) This subpart C does not apply to Commerce debts. See §§ 19.10 through 19.12 of this Part for offset procedures applicable to Commerce debts.

(3) This subpart C does not apply to the collection of non-Commerce debts through tax refund offset. See 31 CFR 285.2 for tax refund offset procedures.

(b) *Administrative offset (including salary offset); certification.* A Commerce entity will initiate a requested offset only upon receipt of written certification from the creditor agency that the debtor owes the past-due, legally enforceable debt in the amount stated, and that the creditor agency has fully complied with all applicable due process and other requirements contained in 31 U.S.C. 3716, 5 U.S.C. 5514, and the creditor agency’s regulations, as applicable. Offsets will continue until the debt is paid in full or otherwise resolved to the satisfaction of the creditor agency.

(c) *Where a creditor agency makes requests for offset.* Requests for offset under this section shall be sent to the Department of Commerce, ATTN: Deputy Chief Financial Officer, 1401 Constitution Avenue, NW., Room 6827, Washington, DC 20230. The Deputy Chief Financial Officer will forward the request to the appropriate Commerce entity for processing in accordance with this subpart C.

(d) *Incomplete certification.* A Commerce entity will return an incomplete debt certification to the creditor agency with notice that the creditor agency must comply with paragraph (b) of this section before action will be taken to collect a debt from a payment issued by a Commerce entity.

(e) *Review.* A Commerce entity is not authorized to review the merits of the creditor agency’s determination with respect to the amount or validity of the debt certified by the creditor agency.

(f) *When Commerce entities will not comply with offset request.* A Commerce entity will comply with the offset request of another agency unless the Commerce entity determines that the

offset would not be in the best interests of the United States, or would otherwise be contrary to law.

(g) *Multiple debts.* When two or more creditor agencies are seeking offsets from payments made to the same person, or when two or more debts are owed to a single creditor agency, the Commerce entity that has been asked to offset the payments may determine the order in which the debts will be collected or whether one or more debts should be collected by offset simultaneously.

(h) *Priority of debts owed to Commerce entity.* For purposes of this section, debts owed to a Commerce entity generally take precedence over debts owed to other agencies. The Commerce entity that has been asked to offset the payments may determine whether to pay debts owed to other agencies before paying a debt owed to a Commerce entity. The Commerce entity that has been asked to offset the payments will determine the order in which the debts will be collected based on the best interests of the United States.

§ 19.21 What does a Commerce entity do upon receipt of a request to offset the salary of a Commerce entity employee to collect a debt owed by the employee to another Federal agency?

(a) *Notice to the Commerce employee.* When a Commerce entity receives proper certification of a debt owed by one of its employees, the Commerce entity will begin deductions from the employee's pay at the next officially established pay interval. The Commerce entity will send a written notice to the employee indicating that a certified debt claim has been received from the creditor agency, the amount of the debt claimed to be owed by the creditor agency, the date deductions from salary will begin, and the amount of such deductions.

(b) *Amount of deductions from Commerce employee's salary.* The amount deducted under § 19.20(b) of this Part will be the lesser of the amount of the debt certified by the creditor agency or an amount up to 15% of the debtor's disposable pay. Deductions shall continue until the Commerce entity knows that the debt is paid in full or until otherwise instructed by the creditor agency.

Alternatively, the amount offset may be an amount agreed upon, in writing, by the debtor and the creditor agency. See § 19.12(g) (salary offset process).

(c) *When the debtor is no longer employed by the Commerce entity—*(1) *Offset of final and subsequent payments.* If a Commerce entity employee retires or resigns or if his or her employment ends before collection of the debt is complete, the Commerce entity will continue to offset, under 31 U.S.C. 3716, up to 100% of an employee's subsequent payments until the debt is paid or otherwise resolved. Such payments include a debtor's final salary payment, lump-sum leave payment, and other payments payable to the debtor by the Commerce entity. See 31 U.S.C. 3716 and 5 CFR 550.1104(1) and 550.1104(m).

(2) *Notice to the creditor agency.* If the employee is separated from the Commerce entity before the debt is paid in full, the Commerce entity will certify to the creditor agency the total amount of its collection. If the Commerce entity is aware that the employee is entitled to payments from the Civil Service Retirement and Disability Fund, Federal Employee Retirement System, or other similar payments, the Commerce entity will provide written notice to the agency making such payments that the debtor owes a debt (including the amount) and that the provisions of 5 CFR 550.1109 have been fully complied with. The creditor agency is responsible for submitting a certified claim to the agency responsible for making such payments before collection may begin. Generally, creditor agencies will collect such monies through the Treasury Offset Program as described in § 19.9(c) of this Part.

(3) *Notice to the debtor.* The Commerce entity will provide to the debtor a copy of any notices sent to the creditor agency under paragraph (c)(2) of this section.

(d) *When the debtor transfers to another Federal agency—*(1) *Notice to the creditor agency.* If the debtor transfers to another Federal agency before the debt is paid in full, the Commerce entity will notify the creditor agency and